

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

KEVIN W. TOBIN,
Plaintiff

v.

Civil Action No. 05-11179DPW

LIBERTY LIFE ASSURANCE
COMPANY OF BOSTON and
LIBERTY MUTUAL
INSURANCE COMPANY,
Defendants

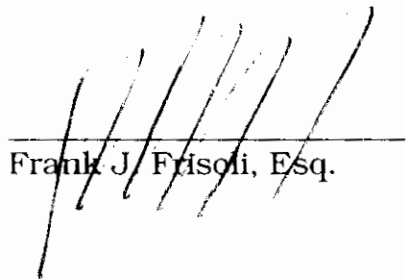
AFFIDAVIT OF FRANK J. FRISOLI, ESQ.

I, Frank J. Frisoli, Esq. do hereby on oath depose and state as follows:

1. I am an attorney admitted to practice law in the Commonwealth of Massachusetts and I represent the plaintiff, Kevin W. Tobin, before this Court.
2. I provide this affidavit to submit to the Court documents which were referenced in the plaintiff's Opposition to Motion to Dismiss. Plaintiff relies on these documents in support of his Motion to Dismiss.
3. Attached hereto as Exhibit A is email of Debra Waldstein, dated March 5, 2001 which acknowledges that Tobin's effective date of termination was January 11, 2001. Said document was produced by Liberty Mutual in Tobin's employment discrimination action.
4. Attached hereto as Exhibit B is a letter from Liberty Life Assurance Company of Boston to the plaintiff dated January 31, 2001. Said document was produced by Liberty Mutual in Tobin's employment discrimination action.
5. Attached hereto as Exhibit C letter dated May 18, 2005 received from Liberty Life Assurance Company of Boston.

6. Attached hereto as Exhibit D are requests for ERISA documents made by me to Liberty Mutual and Liberty Life Assurance Company of Boston.
7. Attached hereto as Exhibit E is a copy of a letter directed to me by Liberty Mutual dated July 5, 2005.
8. Attached hereto as Exhibit F is a copy of the plaintiff's short term disability plan for 2000 which was provided to me with the letter dated July 5, 2005 referenced in the preceding paragraph.

Signed under the pains and penalties of perjury this 29th day of August, 2005.



Frank J. Frisoli, Esq.

EXHIBIT A

Lewis, Patricia (HR)

From: Waldstein, Debra
 Sent: Monday, March 05, 2001 11:51 AM
 To: Cirignano, Anthony
 Cc: Vance, Kevin; Lewis, Patricia (HR)
 Subject: FW: Tobin

Sensitivity: Confidential

Message Flag: Follow up
 Flag Status: Flagged

Kevin/Trish, I had Helen Sayles review this case. We agree the termination for performance was appropriate. However, we do not feel Kevin Tobin was appropriately advised that he could in fact elect retirement - even if he wanted to defer actual pension payments in order to continue post-retirement benefits. Tony Cirignano is working on how we can now make that possible for him to do. Please see Helen's email below. I'll keep you posted.

Tony, I reviewed HR Portal for Kevin Tobin. Here's the info you requested:

- SS # - 029-34-1386
- Hired - 9/16/1964
- DOB - 9/26/1945
- Termination date eff. - 1/11/2001
- Severance date eff. - 1/27/2001
- Cobra screen shows still pending - qualifying date = 3/15/2001
- Org. # - 0108-00121 (job was Personal Markets Sales Rep)
- Location - 0108 - Hingham, MA

Please advise what I need to do to now offer post retirement medical, dental, life and a contact name if he chooses to elect retirement.

Deb Waldstein
 Manager, Employment & Employee Relations
 Phone (617) 574-5650
 Fax (617) 574-5616

-----Original Message-----

From: Sayles, Helen E R
 Sent: Friday, March 02, 2001 9:30 AM
 To: Waldstein, Debra
 Cc: Cirignano, Anthony
 Subject: Tobin

Deb, I reviewed the Tobin case. The issues:

- the termination was appropriate based on the documentation of his performance and our disciplinary process.
- the reason for his termination was performance based, and therefore he is entitled to severance pay.
- because of his service and age, he is also entitled to receive pension benefits - he can choose to defer receiving those benefits until a later age.
- he is also eligible to receive retiree medical benefits - however, these benefits cannot be deferred - normally we require election of these benefits at the time of termination.

I have discussed this with Tony and, because he was not given the opportunity to make a retiree medical election, Tony is willing to make an exception to the normal process to allow him to elect retiree medical, etc.

It is important that we distinguish between a voluntary termination when someone retires (reason code = retirement), and a performance based termination when someone is eligible for a pension and retiree welfare benefits (reason code = poor performance). This one was performance based.

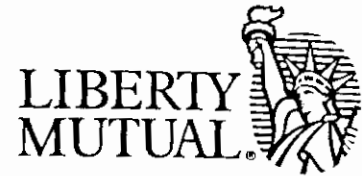
We need to make sure the SBU HR Managers are aware of these issues. We also need to make sure they don't use security escorts unless we think there is a need - it's not the way we want people to be treated.

Please feel free to work with Tony on what Kevin Tobin needs to know and do to receive his benefits.

Helen

EXHIBIT B

Integrated Disability Management
Employee Claims Unit
P.O. Box 1519
Dover, NH 03821-1519
Telephone: 1-(800) 210-7140
Fax: (603) 740-6382



Liberty Life Assurance Company of Boston

January 31, 2001

Kevin Tobin
41 Outlook Road
Marshfield, MA 02050

RE: Liberty Mutual Insurance Company
Short Term Disability ("STD")
Claim Number 914857

Dear Mr. Tobin:

I am writing regarding your claim for benefits under Liberty Mutual's Short Term Disability ("STD") Plan.

The STD Summary Plan Description, located on Liberty Mutual's employee intranet site, states the following under the "When Coverage Terminates" section:

"Your coverage terminates when you cease to be employed by the Plan Sponsor. Pay received in lieu of accrued Flexible Time Off/Personal Holidays will not extend your employment or coverage. Coverage also ceases when an employee changes to a different class of employment not eligible for this coverage (e.g., change to part-time status scheduled and regularly working less than 20 hours per week)."

Since your last day of employment was January 10, 2001, your coverage terminated on January 10, 2001, and you are not eligible for short term disability benefits.

We have notified the Salary Department that no benefits have been authorized. If an overpayment has occurred, you will be contacted directly by a representative from the Salary Department to arrange a repayment plan.

Under the Employee Retirement Income Security Act of 1974 (ERISA), you may request a review of this denial by writing to the Liberty Life Assurance Company of Boston representative signing this letter. This written request for review must be sent within 60 days of your receipt of this letter and state the reasons you feel your claim should not have been denied. Include documentation such as [test results, consultations, claim specific information] which you feel will support your claim. Under normal circumstances, you will be notified of Liberty Mutual's final decision within 60 days of the date that your request is received. If there are special circumstances requiring delay, you will be notified of Liberty Mutual's final decision no later than 120 days after your request for review is received.

Please call me at 1-800-210-7140, extension 32630 with questions about your disability claim.

Sincerely,

A handwritten signature in cursive script that reads "Michelle Meserve".

Michelle Meserve

Case Manager

Employee Claims Unit

Phone: 1-800-210-7140 Ext. 32630

EXHIBIT C



Liberty Life Assurance Company of Boston
Disability Claims
Employee Claims Unit
P.O. Box 1525
Dover, NH 03821-1525
Phone No.: (800) 210-0268
Secure Fax No.: (603) 743-4794

May 18, 2005

Frisoli and Frisoli, Attorneys at Law
Attn: Frank J. Frisoli
797 Cambridge Street
Cambridge, MA 02141-0000

RE: Kevin Tobin
Short Term Disability Benefits
Liberty Mutual Insurance Co.
Claim #: 1206836

Dear Attorney Frisoli:

We are in receipt of your May 13, 2005 request for information. Liberty Life Assurance of Boston provides Administrative Services Only for Liberty Mutual Insurance Company. As such, please contact Mr. Tobin's Benefit Representative for a copy of his Short Term Disability Benefits Plan.

Sincerely,

A handwritten signature in cursive script that reads "Dawn-Elynn Tillinghast".

Dawn-Elynn Tillinghast
Appeal Review Consultant
Phone No.: (800) 210-0268 Ext. 38933
Secure Fax No.: (603) 743-4794

EXHIBIT D

FRISOLI AND FRISOLI
ATTORNEYS AT LAW

797 CAMBRIDGE STREET
CAMBRIDGE, MASSACHUSETTS 02141

(617) 354-2220 Telephone
(617) 354-6939 Facsimile

FRANK J. FRISOLI, P.C.
LAWRENCE W. FRISOLI, P.C.

WENDY R. STANDER

May 20, 2005

Dawn-Elynn Tillinghast
Appeal Review Consultant
Liberty Mutual
Disability Claims/Employee Claims Unit
PO BOX 1525
Dover, NH 03821-1525

RE: Kevin Tobin
Short Term Disability Benefits
Claim # 1206836

Dear Ms. Tillinghast:

I am in receipt of your letter dated May 18, 2005. I am once again writing to you on behalf of my client, Kevin W. Tobin, who is a former employee of Liberty Mutual and a participant in Liberty Mutual's disability program. In accordance with Sections 104 and 503 of the Employee Retirement Income Security Act of 1974 (ERISA), I hereby request:

1. Each governing plan document of the disability plan (e.g. trust agreements, disability plan, contracts and other instruments under which the plan was established and operated) in effect at any time since January 2000 and all amendments thereto.
2. Each summary plan description of the disability plan in effect at any time since January 2000 and all statements of material modification.
3. Documents which pertain to my client's pension eligibility including correspondence, memoranda and minutes of meetings.

Dawn-Elynn Tillinghast

May 20, 2005

Page two

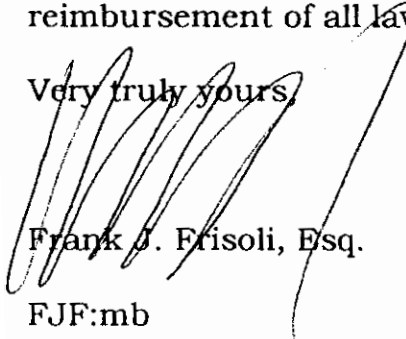
4. A current statement of my client's benefits under the disability plan and documents indicating any benefit actually received by my client.
5. The most recent Form 5500 filed by the disability plan, together with all schedules and attachment hereto.

I am sure that you are aware that under Sections 502(c) of ERISA, **any administrator** who fails or refuses to comply with a request for information which is required by the law within 30 days after such request is made may be personally liable for up to \$110 a day from the date of such failure or refusal.

Your response to my initial request suggested that the request should be directed to some other party. Your response failed to provide me with the identity and address of the other party. Your response acknowledged that you work for the administrator. I believe my request was properly directed and your response was inappropriate.

After receipt of the documents and information requested, reimbursement of all lawful copying charges will be made.

Very truly yours,


Frank J. Frisoli, Esq.

FJF:mb

FRISOLI AND FRISOLI
ATTORNEYS AT LAW

797 CAMBRIDGE STREET
CAMBRIDGE, MASSACHUSETTS 02141

(617) 354-2220 Telephone
(617) 354-6939 Facsimile

FRANK J. FRISOLI, P.C.
LAWRENCE W. FRISOLI, P.C.

WENDY R. STANDER

June 6, 2005

Liberty Mutual Insurance Company
Attn: Benefits Department
175 Berkley Street
Boston, MA 02117

Re: Kevin Tobin
Claim No. 1206836

Please be advised that I represent Kevin W. Tobin, who is a former employee of Liberty Mutual and a participant in Liberty Mutual's disability program. In accordance with Sections 104 and 503 of the Employee Retirement Income Security Act of 1974 (ERISA), I hereby request:

1. Each governing plan document of the disability plan (e.g. trust agreements, disability plan, contracts and other instruments under which the plan was established and operated) in effect at any time since January 2000 and all amendments thereto.
2. Each summary plan description of the disability plan in effect at any time since January 2000 and all statements of material modification.
3. Documents which pertain to my client's pension eligibility including correspondence, memoranda and minutes of meetings.
4. A current statement of my client's benefits under the disability plan and documents indicating any benefit actually received by my client.
5. The most recent Form 5500 filed by the disability plan, together with all schedules and attachment hereto.

Liberty Mutual Insurance Company
June 6, 2005
Page two

After receipt of the documents and information requested,
reimbursement of all lawful copying charges will be made.

Very truly yours,

Frank J. Frisoli, Esq.

FJF:mb

EXHIBIT E



Liberty Mutual Group

Benefits Department
175 Berkeley Street
Boston, MA 02117
(617) 557-9500

BY UPS NEXT DAY DELIVERY

July 1, 2005

Frank J. Frisoli
Frisoli and Frisoli
797 Cambridge Street
Cambridge, Massachusetts 02141

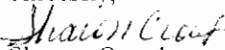
Re: Kevin Tobin

Dear Mr. Frisoli,

This letter responds to your correspondence dated June 6, 2005, in which you request documents under ERISA on behalf of your client Kevin Tobin. While we note Mr. Tobin is not a current participant in the Liberty Mutual disability plans, based on currently available information enclosed please find the following documents and information in response to your request.

1. Plan documents for the Liberty Mutual Short-Term Disability Plan, Liberty Mutual Long-Term Disability Plan, and Group Disability Income Policy since January 2000 and amendments.
2. Summary Plan Descriptions for the Liberty Mutual Short-Term Disability Plan and Liberty Mutual Long-Term Disability Plan for plan years 2000 through 2005.
3. You have asked for "Documents which pertain to [your] client's pension eligibility including correspondence, memoranda and minutes of meetings." While we note this request goes beyond what we are required to provide under ERISA, we enclose a copy of the Retirement Plan SPD effective January 1, 2005, as well as correspondence and several benefit calculation statements.
4. You have asked for "A current statement of [your] client's benefits under the disability plan and documents indicating any benefit actually received by [your] client." Please be advised that ERISA does not require us to prepare such a statement for your client. Also, we note your client already has been provided this information through his receipt of such benefits. Nevertheless we provide the following: Mr. Tobin is not currently receiving disability benefits under the Liberty Mutual Short-Term Disability Plan or Liberty Mutual Long-Term Disability Plan. Mr. Tobin received \$499.69 in short-term disability benefits under the Liberty Mutual Short-Term Disability Plan for the period of September 15, 2000, through September 27, 2000.
5. The most recent Form 5500 with schedules filed by the Liberty Mutual Short-Term Disability Plan and Liberty Mutual Long-Term Disability Plan.

Sincerely,


Sharon Crowley

Customer Service Manager, Benefits

EXHIBIT F

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D-1

SHORT-TERM DISABILITY PLAN

Overview

The Short-Term Disability (STD) Plan is designed to continue all or part of your pay when a disability due to illness or accident keeps you away from work for more than seven consecutive (7) calendar days and for up to 25 weeks.

Eligibility

Regular full-time and temporary full-time (if employment is expected to last longer than six months) employees on the U.S. payroll become eligible for coverage on the first day of employment. Regular part-time employees (if scheduled and regularly working 20 hours or more per week) on the U.S. payroll become eligible on January 1, 1999 or the first day of employment, whichever is later. Individuals classified as independent contractors or leased employees are not eligible for coverage, even if they are later reclassified as common law employees for tax purposes.

Cost

Employee contributions are not required. Short-Term Disability benefits are fully funded by the Plan Sponsor.

Definitions

"Accidental Injury" or "Injury" means bodily impairment resulting directly from an accident.

"Mental Illness" means mental, nervous or emotional diseases or disorders of any type, including, but not limited to alcoholism or drug abuse or drug addiction.

"Plan Sponsor" means Liberty Mutual Insurance Company, and with respect to employees employed by U.S. subsidiaries of Liberty Mutual Insurance Company which are participating companies under the Plan, the respective subsidiary company.

"Sickness" means illness, disease, pregnancy or complications of pregnancy.

"Total disability" or "Totally disabled" with respect to a covered employee means the inability to perform all the material and substantial duties of his or her regular occupation on a full-time

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basis because of injury or sickness.

Short-Term Disability Benefits

Short-Term Disability benefits begin on the eighth consecutive calendar day of disability, provided that you have been certified by a fully licensed physician to be totally disabled. If your total disability is not certified by a physician, benefits are not payable.

For full-time employees, Flexible Time Off (FTO) or Personal Holidays or Company Holidays are used to continue your pay during the first five work days of your disability (your "waiting period"). If you do not have enough FTO or Personal Holidays to cover the waiting period in its entirety, you will only receive pay for the number of FTO or Personal Holidays you have accrued or Company Holidays, if applicable. You must use time accrued to cover the waiting period.

For part-time employees, the first five work days of your disability (your "waiting period") will be covered by 20 hours of FTO or Personal Holidays, or Company Holidays, if applicable. You must use time accrued to cover the waiting period.

After the waiting period, Short-Term Disability benefits may continue up to 25 weeks. The amount of your Short-Term Disability benefit is determined as follows:

- For each complete year of service (including past service credit*) you are eligible for one week of Short-Term Disability benefits at 100% of your weekly pay. For Liberty Mutual employees, past service credit is defined as the length of service credited to regular full-time and regular part-time employees who have had prior service with the Company. Weekly pay is defined as:
 - For full-time non-sales employees, weekly pay is defined as 1/52nd of your base rate of annual salary at the time you became disabled.
 - For full-time sales employees, weekly pay is defined as 1/52nd of your base rate of annual salary at the time you became disabled plus 1/52nd of sales bonuses and/or commissions paid to you in the most recent 12-month period at the time you became disabled.
 - For part-time non-sales employees, weekly pay is defined as 20 hours times your hourly rate at the time you became disabled.
 - For part-time sales employees, weekly pay is defined as 20 hours times your hourly rate at the time you became disabled plus 1/52nd of sales bonuses and/or commissions paid to you in the most recent 12-month period at the time you became disabled.
- Then, for each additional week of Short-Term Disability, you will receive 66-2/3% of your weekly pay.

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*For purposes of determining past service credit, former employees of Golden Eagle, Wausau Service Corporation, Nationwide Trial Division, ACE-USA (including former CIGNA employees who transferred from CIGNA to ACE-USA on July 2, 1999), ALM, American Ambassador, CIGNA Bond Services, New England Health Group, Inc., CUMIS General Insurance Company (employees who were employed as of July 1, 1998 receive credit for prior employment service with CUNA Mutual Insurance Company), Liberty Real Estate Management, Inc., and WorkWell Health & Safety, Inc. employed on January 1, 2000 or before who transferred to Liberty Mutual as of the effective date of the acquisition are granted credit for continuous employment service with their previous employer from their most recent hire date for purposes of determining years of service.

After 26 weeks of disability (one week of Flexible Time Off/Personal Holidays plus 25 weeks of Short-Term Disability), Long-Term Disability benefits may begin. Refer to D-2, Long-Term Disability, for details.

The following is an overview of the disability plans:

Week 1	Weeks 2 - 26		After 26 weeks
Waiting Period	Short-Term Disability		Long-Term Disability
Five days (or 20 hours) FTO and/or Personal or Company Holidays used (if available)	One week for each year of service (up to 25): 100% of weekly pay	Remaining weeks of Short-Term Disability: 66-2/3% of weekly pay	50% or 60% of weekly pay (depending on option you selected)

If You Are Disabled Again

If you return to work and become totally disabled again from the same injury or illness within six months, your recurrent disability will be considered as a continuation of the original disability and no new waiting period will apply. Short-Term Disability benefits will be paid only for the remaining portion of the 25-week disability period. A new Short-Term Disability benefit period begins only if you:

- (a) have been back to work full-time at least six months and become totally disabled again due to the same injury or illness; or
- (b) have returned to work full-time and become disabled due to an unrelated injury or illness.

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How to Claim Your Short-Term Disability Benefits

Notify Your Supervisor or Manager

You should, if possible, notify your supervisor or manager in advance of a pending Short-Term Disability absence. If the absence is unanticipated, you must notify your supervisor or manager on the first day of disability and at regular intervals thereafter as agreed upon with your supervisor or manager. In either event, your claim for Short-Term Disability benefits and related medical information from your provider must be received by Integrated Disability Management Claims within 8 days from the date of your disability in order for benefits to continue without interruption.

Call The Toll-Free Disability Claim Telephone Reporting Service

After you have notified your supervisor or manager, and as soon as you know if your illness or injury may last more than seven consecutive calendar days, you must report your disability claim. You may also report a claim up to 2 weeks in advance of a pre-scheduled surgery or treatment. You must report your claim regardless of whether it is work-related or not, including maternity claims.

All Short-Term Disability claims must be reported by calling the Disability Claim Telephone Reporting Service at their toll-free number: **1-800-260-2170**. If you are hearing impaired and have a TDD system, you may elect to call the following AT&T Relay Service number: 1-800-855-2880. A representative will take claim information from you or a family member (if you are not able to call), including your name, Social Security Number and other personal information, office location, supervisor's name, nature of your disability and information about your treating physician and office visits.

This information will be sent to the Integrated Disability Management Claims department for review. Your physician will be contacted by a Managed Disability Services Nurse or Integrated Disability Management Case Manager to obtain enough medical information to determine your eligibility for Short-Term Disability benefits. It is important that your attending physician provide the information requested by Integrated Disability Management Claims, including, but not limited to: your diagnosis; treatment program; dates of treatment; if applicable, the type of surgery and date performed and an estimated return to work date. This information should be provided to Integrated Disability Management Claims as soon as possible so that your benefit checks are not delayed. Any additional information needed from you will be requested by Integrated Disability Management Claims.

In order for your physician to provide this medical information to Integrated Disability Management Claims, you will need to sign a release. This is on the Disability Claim Telephone Reporting Service *Wallet Card* (BEN 44), which is available from your office or H.O. Boston Benefits. You should keep the card with you and take the card to your office visit with your attending physician. Copy the release and sign and date it when you first meet with your doctor regarding your disability.

Failure of your physician to provide the requested medical information could result in the denial of your claim.

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Integrated Disability Management Claims will complete the review of your Short-Term Disability claim and, if approved, authorize your Short-Term Disability benefits, if appropriate. Short-Term Disability benefit payments will be sent to you biweekly from H.O. Dover Salary instead of your regular paychecks for up to 25 weeks, as long as you are determined to be totally disabled.

Return to Work Status

It is important to update your supervisor or manager regarding your return to work status at regular intervals during your recovery. Your supervisor or manager may also contact you for this information if they do not hear from you. You or your physician may also periodically be contacted by an Integrated Disability Management Claims representative for this information.

Your supervisor or manager, and the Integrated Disability Management Claims representative handling your Short-Term Disability claim all need to know when your restrictions and/or limitations no longer totally disable you from your job. If you are authorized to return to work by your physician with restrictions and/or limitations, your physician will provide you and Integrated Disability Management Claims with this information. Integrated Disability Management Claims will share limited information about your restrictions and/or limitations with your supervisor or manager so that your accommodation needs may be addressed.

Your Responsibilities While On Disability Leave

You are expected to promptly report your claim to the Disability Claim Telephone Reporting Service and are expected to cooperate in the review of your claim. Benefits may be delayed if your claim is not reported as soon as you think you are going to be out more than seven consecutive calendar days. Benefits may be forfeited if your claim is not reported within thirty days from your initial date of disability. If it is not reasonably possible for you or a family member to file your claim within this 30-day period, you may still be eligible to receive benefits provided your claim is reported as soon as possible from your initial date of disability. However, unless delayed by your legal incapacity, your claim must be reported within 90 days after your initial date of disability or your benefits will be forfeited.

Also, if requested by Integrated Disability Management Claims, you are expected to follow through with your physician for treatments, to provide any medical information, and to complete any additional claim forms. You or your physician's failure to provide documentation, which in the judgment of Integrated Disability Management Claims supports a disability leave or is necessary to administer benefits, may result in loss of benefits, denial of your claim and your removal from disability status. This medical documentation must be submitted to Integrated Disability Management Claims within 15 days from your initial date of disability or 10 days from the date of request by Integrated Disability Management Claims. If you are removed from disability status, continued absence from your job may be unauthorized and cause for termination of employment.

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Independent Medical Examinations

Integrated Disability Management Claims has the right to have you examined by a physician as often as it deems reasonably necessary. Liberty is not responsible for transportation charges incurred in the event Liberty requests an independent medical examination. Failure to appear for an independent medical examination may result in benefits ceasing until a rescheduled independent medical examination is completed and may result in your being charged for the cost of the missed examination.

Right to Disclosure

By reporting a Short-Term Disability claim, you agree to the release of information from your physician or other licensed health care providers, medical facility, government agency, insurance company, HMO, Plan Sponsor/Administrator, or employer regarding diagnosis, treatment and prognosis of your physical or mental condition and/or treatment, as well as any non-medical information about you to the Plan Sponsor, the particular Company in the Liberty Mutual Group to which you are submitting a claim and its insurers, its legal representatives or other persons or organizations providing claims management services to the Plan and to those representatives of the Plan Sponsor who have a business use for such information.

This confidential information will be used by the Company or Plan Sponsor as one factor to determine your eligibility for Short-Term Disability benefits. Any information obtained will not be released by the Company to any person or organization except to the Plan Sponsor, other companies in the Liberty Mutual Group of companies to whom you submit a claim and their insurers, their legal representatives or other persons or organizations providing claims management services to the Plan, those representatives of Liberty Mutual who have a business use for such information and those to whom there is a legal obligation to provide the information. The clinical information, in combination with the physical and interpersonal/cognitive factors of your job and the contractual provisions under which you are covered, will be used to establish the most appropriate work absence duration.

Leave of Absence

Your Short-Term Disability coverage will continue automatically during any approved leave of absence. If you do not return to work on your scheduled return date, your coverage will be terminated.

Family/Medical Leave of Absence

Eligible employees can choose to take Family/Medical Leave after Short-Term Disability benefits end, provided that the Short-Term Disability period does not exceed 13 weeks. The Short-Term Disability period will be counted as Family/Medical Leave. Family/Medical Leave, not covered by the Short-Term Disability Plan, is unpaid time off. For important information on Family/Medical Leave of Absence, see Section 5.

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Your Other Benefits While Disabled

Your other payday deductions such as medical, dental, vision care, life insurance, Thrift-Incentive Plan (TIP), auto/homeowners' insurance, etc. will be deducted from your Short-Term Disability benefit payments in the same manner as they are from your regular paycheck. If your Short-Term Disability benefits are insufficient to cover the insurance deductions, there are two payment options:

- If your disability is less than 30 days, your payday deductions will be deducted from your first paycheck after you return to work.
- If your disability lasts over 30 days, you may be billed by H.O. Dover Salary. Failure to make timely payments will result in loss of coverage.

Special Statutory Disability Benefits

Eligible employees in California, Hawaii, New Jersey, New York, and Puerto Rico receive their special statutory disability benefit payments as part of the Plan's benefit. Eligible employees in Rhode Island receive statutory disability benefits under the state T.D.I. Fund. Remember: Short-Term Disability benefits under this Plan are reduced by the amount of any statutory benefits you are eligible to receive.

Coordination of Benefits

Short-Term Disability benefits are reduced by the amount of any of the following benefits you are eligible to receive: workers' compensation, Social Security (including benefits for your spouse and children on account of your disability), special statutory disability benefits, no-fault benefits, or any group insurance plan benefits. If you are eligible, you are expected to apply for these benefits. Receipt of such benefits will not extend Short-Term Disability benefits beyond the limits set within this plan.

Subrogation and Reimbursement

If your injury appears to be someone else's fault, benefits otherwise payable under the Short-Term Disability Plan for loss of time as a result of that injury will not be paid unless you or your legal representative agree:

- to repay Liberty Mutual Insurance Company ("Liberty Mutual") for such benefits to the extent that they are for losses for which compensation is paid to you by or on behalf of the person at fault;

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- to allow Liberty Mutual a lien on such compensation and to hold such compensation in trust for Liberty Mutual; and
- to execute and give to Liberty Mutual any instruments needed to secure the rights set forth above.

Further, when Short-Term Disability benefits have been paid on your behalf, Liberty Mutual will be subrogated to all rights of recovery that you have against the person at fault. These subrogation rights will extend only to recovery of the amount Liberty Mutual has paid. You must execute and deliver any instruments needed and do whatever else is necessary to secure those rights to Liberty Mutual.

Benefit Overpayment

In the event that you receive Short-Term Disability benefits in excess of the amount to which you are entitled under the plan provisions, you will be expected to reimburse the Plan Sponsor for the amount of any overpayment. The Plan Sponsor has the right to recover such overpayment from you, including the right to reduce future disability benefits, if any.

Pre-Existing Condition Exclusion

A pre-existing condition is a condition resulting from injury or sickness for which an employee has received treatment or incurred expense within the 12-month period immediately preceding the employee's most recent date of hire*. The plan will pay benefits for days of absence caused by a pre-existing condition only if the date of disability occurs on or after the 12 month anniversary of the employee's most recent date of hire. However, the pre-existing condition exclusion will not be applied to pregnancy disability claims which arise, or for which benefits are payable, on or after January 1, 1998.

*For purposes of determining past service credit, former employees of Golden Eagle, Wausau Service Corporation, Nationwide Trial Division, ACE-USA (including former CIGNA employees who transferred from CIGNA to ACE-USA on July 2, 1999), ALM, American Ambassador, CIGNA Bond Services, New England Health Group, Inc., CUMIS General Insurance Company (employees who were employed as of July 1, 1998 receive credit for prior employment service with CUNA Mutual Insurance Company), Liberty Real Estate Management, Inc., and WorkWell Health & Safety, Inc. who became employed with Liberty on or before January 1, 2000 and who elected coverage immediately upon employment by Liberty are granted credit for continuous employment service with their previous employer from their most recent hire date for purposes of satisfying the pre-existing condition exclusion under the Plan.

Limitations on Benefits

- Benefits will be forfeited if your claim for disability benefits is not reported within the

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90-day period following your initial date of disability, unless delayed by your legal incapacity.

- Benefits will be forfeited or delayed if you are not being continuously treated by a fully licensed physician.
- Benefits are not payable for disability due to any act of declared or undeclared war, intentionally self-inflicted injury or active participation in a riot.
- Benefits are not payable if the disability is sustained while committing or attempting to commit a felony or any type of assault or battery.
- Benefits for post-pregnancy disability are generally limited as follows: benefits are payable only for six weeks from the date of a normal delivery and eight weeks from the date of a cesarean section, precluding any complications. (Keep in mind that the first five work days of your disability will be covered by FTO/Personal Holidays, if available.) If complications arise which would extend the disability beyond the usual benefit period, medical evidence supporting that disability must be submitted.
- No benefit is payable for any portion of a period of disability due to mental or emotional disorder, alcoholism, or drug addiction unless you are engaged in a corrective program under the continuous guidance of a licensed physician.
- No benefit is payable for disability due to elective cosmetic surgery.
- If you are in an active disability claim status on the date a benefit improvement in the duration or amount of benefits would otherwise become effective, the benefit improvement will not be effective until you return to work on a full-time or regular part-time basis.
- Merit increases and/or service anniversaries that were scheduled to occur during the Short-Term Disability, including the waiting period, do not apply towards the calculation of Short-Term Disability benefits.

When Coverage Terminates

Your coverage terminates when you cease to be employed by the Plan Sponsor. Pay received in lieu of accrued Flexible Time Off/Personal Holidays will not extend your employment or coverage. Coverage also ceases when an employee changes to a different class of employment not eligible for this coverage (e.g., change to part-time status scheduled and regularly working less than 20 hours per week).

Administration of the Plan

Authority of Plan Administrator

The Plan Administrator has the authority, in its sole discretion, to construe the terms of this Plan and decide all questions of eligibility, determine the amount, time and manner of payment of any benefits and decide any other matters relating to the administration or operation of the Plan. Any such interpretations or decisions of the Plan Administrator shall be conclusive and

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binding.

Claims and Appeals Procedure

If your claim for a benefit is denied, in whole or in part, Integrated Disability Management Claims will provide you with a comprehensible notice setting forth:

- (a) the specific reason or reasons for the denial;
- (b) specific reference to pertinent Plan provisions on which the denial is based;
- (c) a description of any additional material or information necessary for you to submit to perfect your claim and an explanation of why such material or information is necessary; and
- (d) a description of the Plan's claim review procedure and the fact that the review procedure is available upon your written request to Integrated Disability Management Claims within 60 days after you receive written notice of the denial of the claim, and includes the right to examine pertinent documents and submit issues and comments in writing to Integrated Disability Management Claims.

Such written notice will be given within 90 days after the claim is received by Integrated Disability Management Claims (or within 180 days, if special circumstances require an extension of time for processing the claim, and if written notice of such extension and circumstances is given to the claimant within the initial 90-day period). If such notification is not given within such period, the claim will be considered denied as of the first day of such period and you may request a review of your claim. If you disagree with a decision to deny the payment of any benefits, in whole or in part, you should submit your claim, in writing, to Integrated Disability Management Claims. The Plan Administrator, or its designee, will make the decision on review within 60 days after receipt of the request for review, unless circumstances warrant an extension of time not to exceed an additional 60 days (and unless written notice of such extension and circumstances is given to the claimant within the initial 60-day period). The decision on review shall be in writing and drafted in a manner calculated to be understood by the claimant, and include specific reasons for the decision with references to the specific Plan provisions on which the decision is based.

Legal Proceedings

You or your authorized representative cannot start any legal action until:

- the date on which your appeals rights have been exhausted; nor
- more than one year after the time proof of claim is required.

Legal actions are contingent upon first having followed the Claims and Appeals procedure outlined above.